

CONTRACT FOR SERVICES

THIS CONTRACT is entered into this ____ day of _____ 2018, between the CITY OF STOCKTON, a municipal corporation ("CITY), and **OTIS ELEVATOR COMPANY**, a **STATE OF CALIFORNIA CORPORATION**, with a business address at **4604 ROSEVILLE ROAD, SUITE 112, NORTH HIGHLANDS, CALIFORNIA, 95660**, hereinafter called "CONTRACTOR.," THIS CONTRACT is for the **CITY OF STOCKTON ELEVATOR MAINTENANCE AND SERVICE (PROJECT NO. OM-18-087)**, hereinafter referred to as "SERVICE".

RECITALS

- A. CONTRACTOR represents that it is licensed in the State of California and is qualified, willing and able to provide the services proposed in the SCOPE OF WORK section of this Contract.
- B. CONTRACTOR represents that it is registered pursuant to Labor Code Section 1725.5 and will register annually with the Department of Industrial Relations, if the services have a wage determination for the services outlined in the SCOPE OF WORK section of this Contract.
- C. CONTRACTOR represents that it will pay all required prevailing wages under California Labor Code for all services provided that have a wage determination.
- D. CITY finds it necessary and advisable to use the services of the CONTRACTOR for the purposes provided in this Contract.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions in this Contract, CITY and CONTRACTOR agree as follows:

1. SCOPE OF SERVICES. Subject to the terms and conditions set forth in this Contract, CONTRACTOR shall undertake and complete the services described in **Exhibit A (scope and specifications)**. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A and compatible with the standards of the profession. CONTRACTOR agrees that it shall provide fully complete services including all labor, materials, tools, equipment and insurance required and that are acceptable to the CITY.

2. COMPENSATION. CITY shall pay CONTRACTOR for services outlined in **Exhibit A** according to the fee not to exceed the schedule detailed in **Exhibit B (fee schedule)**, which is attached to this Contract and incorporated by this reference. CONTRACTOR agrees this fee is for full remuneration for performing all services and furnishing all staffing, materials and tools called for in the scope of services. The payments shall be made on a monthly basis upon receipt and approval of CONTRACTOR'S invoice for completed work. Total compensation for services and

reimbursement for costs shall not exceed **\$109,200.00** or as otherwise mutually agreed to in a Contract Change Order.

Pursuant to Section 22300 of the Public Contract Code, CONTRACTOR will be permitted, at its request and sole expense, to substitute securities for any monies withheld by the CITY to ensure performance under the contract. Said securities will be deposited either with the CITY or with a State or federally chartered bank as escrow agent. Securities eligible for this substitution are those listed in Section 16430 of the California Government Code or bank or savings and loan certificates of deposit. CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

- a. Invoices submitted by CONTRACTOR to CITY must contain a brief description of work performed, location of work, time used, materials and special equipment and City project number. Payment shall be made within thirty (30) days of approval of invoice by City.
- b. Upon completion of work and acceptance by CITY, CONTRACTOR shall have sixty (60) days in which to submit final invoicing for payment. An extension may be granted by CITY upon receiving a written request thirty (30) days in advance of said time limitation. CITY shall have no obligation or liability to pay any invoice for work performed which CONTRACTOR fails or neglects to submit within sixty (60) days, or any extension thereof granted by the CITY, after work is accepted by CITY.

3. INSURANCE. During the term of this Contract, CONTRACTOR shall maintain in full force and effect at its own cost and expense the insurance coverage as set forth in the attached **Exhibit C** (Insurance Requirements and Forms) which is attached to this contract and incorporated by this reference, and shall otherwise comply with the other provisions of **Exhibit C**. Maintenance of proper insurance coverage is a material element of this contract and that failure to maintain or renew coverage or to provide evidence of renewal may be treated as a material breach of contract.

CONTRACTOR shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this contract, the policies of insurance specified in **Exhibit C**, which is attached to this contract and incorporated by this reference, and as provided in the "contract documents" including Section 7-1.06 of the City of Stockton Standard Specifications and Plans as adopted on September 27, 2016, by Council Resolution No. 2016-09-27-1213, effective September 27, 2016.

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.

The Additional Insured coverage under the CONTRACTOR's policy shall be "primary and non-contributory" and will not seek contribution from the City of Stockton's insurance or self-insurance and shall be at least as broad as ISO CG 20 01 04 13.

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Stockton (if agreed to in a written contract or agreement) before the City of Stockton's own insurance or self-insurance shall be called upon to protect it as a named insured.

All self-insured retentions (SIR) must be disclosed to the CITY's Risk Management for approval and shall not reduce the limits of liability. Payment Bond in the amount of the self-insured retention (SIR) may be required.

Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the CITY.

The CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

CONTRACTOR shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event contractor fails to obtain or maintain completed operations coverage as required by this agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by CONTRACTOR.

CONTRACTOR agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by CONTRACTOR agree to be bound to CONTRACTOR and the CITY in the same manner and to the same extent as CONTRACTOR is bound to the CITY under the Contract Documents. CONTRACTOR further agrees to include these same provisions with any subcontractor regardless of tier. A copy of the CITY Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The CONTRACTOR shall require all Subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and contractor will provide proof of compliance to the CITY.

4. INDEMNITY AND HOLD HARMLESS. With the exception that this section shall in no event be construed to require indemnification by CONTRACTOR to a greater extent than permitted under the public policy of the State of California, CONTRACTOR shall indemnify, protect, defend with counsel approved by CITY and at CONTRACTOR'S sole cost and expense, and hold harmless CITY, its Mayor, Council, officials, representatives, agents, employees, and volunteers from and against any and all claims,

causes of action, liabilities, judgments, awards, losses, liens, claims, stop notices, damages, expenses, and costs (including without limitation attorneys' fees, expert and consultant fees, and other expenses of litigation) of every nature, including, but not limited to, death or injury to persons, or damage to property, which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, or from any violation of any federal, State, or municipal law or ordinance, or City Policy, by CONTRACTOR or CONTRACTOR'S officers, agents, employees, volunteers or subcontractors. CONTRACTOR shall not be obligated to indemnify or defend CITY for claims finally determined by a court of law or arbitrator to arise from the active negligence or willful misconduct of the CITY. It is the intent of the Parties that this indemnity obligation is at least as broad as is permitted under California law. To the extent California Civil Code sections 2782, et seq., limit the defense or indemnity obligations of CONTRACTOR to CITY, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by CONTRACTOR under the law. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With exception that this section shall in no event be construed to require indemnification, including the duty to defend, by CONTRACTOR to a greater extent than permitted under the public policy of the State of California, the parties agree that CONTRACTOR'S duty to defend CITY is immediate and arises upon the filing of any claim against the CITY for damages which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement by CONTRACTOR or CONTRACTOR'S officers, agents, employees, volunteers or subcontractors. CONTRACTOR'S duties and obligations to defend the CITY shall apply regardless of whether or not the issue of the CITY'S liability, breach of this Agreement, or other obligation or fault has been determined. CONTRACTOR shall be immediately obligated to pay for CITY'S defense costs of the claim, including, but not limited to, court costs, attorney's fees and costs, expert consultant and witness fees and costs, other witness fees, document reproduction costs, arbitration fees, and, if after final judgment an appeal is pursued, all of such costs for the appeal. At the conclusion of the claim, if there is any determination or finding of sole active negligence or willful misconduct on the part of the CITY, CITY will then reimburse CONTRACTOR for amounts paid in excess of CONTRACTOR'S proportionate share of responsibility for the damages within 30 days after CONTRACTOR provides CITY with copies of all bills and expenses incurred in the defense of the claim(s). It is agreed between the parties that this reimbursement provision assures CONTRACTOR is not obligated to defend or indemnify CITY in an amount greater than provided for under California law, including, without limitation, California Civil Code sections 2782, 2782.6, and 2782.8.

With the exception that this section shall in no event be construed to require indemnification by CONTRACTOR to a greater extent than permitted under the public policy of the State of California, and in addition to the other indemnity obligations in this Agreement, CONTRACTOR shall indemnify, defend, and hold harmless CITY, its Mayor, Council, officials, representatives, agents employees and volunteers from and against all claims, losses, expenses, and costs including, but not limited to attorneys' fees, arising

out of any claim brought against the CITY by an employee, office, agent, or volunteer of CONTRACTOR, regardless of whether such claim may be covered by any applicable workers compensation insurance. CONTRACTOR'S indemnification obligation is not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR under workers' compensation acts, disability acts, or other employee benefit acts.

CONTRACTOR'S obligation to defend, indemnify, and hold the CITY, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Contract for CONTRACTOR to procure and maintain a policy of insurance.

CONTRACTOR/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement for the full period of time allowed by law.

If any section, subsection, sentence, clause or phrase of this indemnification is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this indemnification.

5. SCHEDULE AND TERM. CONTRACTOR shall perform the scope of work as described in **Exhibit A** according to the schedule detailed in **Exhibit A**, which is attached to this Contract and incorporated by this reference. This contract shall commence on the date written above and shall expire on **JUNE 30, 2021**, unless extended by mutual agreement through the issuance of a Contract Change Order. This contract provides for one (1), two (2) year extension at the same rates and terms as outlined in **Exhibit A** and **Exhibit B**.

6. CONFORMANCE TO APPLICABLE LAWS. CONTRACTOR shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances.

a. TITLE VI

Title VI of the Civil Rights Act of 1964 requires that "no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 USC Section 2000d)

<http://www.dol.gov/oasam/regs/statutes/titlevi.htm>.

The City of Stockton requires compliance with the requirements of Title VI in all of its programs and activities regardless of funding source.

b. DISCRIMINATION AND HARASSMENT POLICY

The City of Stockton has a Discrimination and Harassment Policy (**Exhibit D**). The purpose of this policy is to reaffirm the CITY's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace, to define the types of behavior and conduct prohibited by this policy, and to set forth a procedure for reporting, investigating, and resolving complaints of discrimination and harassment in the workplace.

c. LABOR STANDARDS PROVISIONS/CALIFORNIA LABOR CODE

The bidder shall understand that conditions set forth in Chapter 1, Part 7, Division 2 of the California Labor Code shall be considered part of the contract agreement.

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=2.

d. PREVAILING WAGE

CONTRACTOR and any subcontractor shall pay each employee engaged in the trade or occupation not less than the prevailing hourly wage rate. In accordance with the provisions of Section 1770 of the Labor Code, the Director of Department of Industrial Relations of the State of California has determined the general prevailing and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.1, apprenticeship or other training programs authorized by Section 3093 and similar purposes applicable to the work to be done. CONTRACTOR performing the work under this contract shall obtain a copy of the wage rate determination and shall distribute copies to each subcontractor. As the wage determination for each craft reflects an expiration date, it shall be the prime CONTRACTOR and each subcontractor's responsibility to ensure that the prevailing wage rates of concern is current and paid to the employee.

i. The CONTRACTOR performing the work shall be responsible for obtaining a copy of the State wage rate determination. State wage rates may be obtained at <http://www.dir.ca.gov/OPRL/pwd/Determinations/Northern/Northern.pdf>

f. The CONTRACTOR shall be responsible for posting said wage rates at a prominent location at the work site and shall maintain same in a good readable condition for the duration of the work.

ii. Should the CONTRACTOR choose to work on a Saturday, Sunday or on a holiday recognized by the Labor Unions, the CONTRACTOR shall reimburse the CITY the actual cost of engineering, inspection, superintendence, and or other overhead expenses which are directly chargeable to the contract. Should such work be undertaken at the

request of the CITY, reimbursement will not be required. To conform strictly with the provisions of Division 2, Part 7, Chapter 1, Article 2, of the Labor Code of the State of California. To forfeit as a penalty to CITY the sum of TWENTY FIVE AND NO/100 DOLLARS (\$25.00) for each laborer, worker, or mechanic employed by CONTRACTOR, or by any subcontractor under CONTRACTOR, in the execution of this contract, for each calendar day during which any laborer, worker, or mechanic is required or permitted to work more than eight (8) hours and who is not paid the general prevailing rate of per diem wages for holiday and overtime work in violation of the provisions of Sections 1770 to 1781 of the Labor Code of the State of California. That all sums forfeited under the provisions of the foregoing sections shall be deducted from the payments to be made under the terms of this contract.

- iii. The CONTRACTOR to whom the contract is awarded shall insure that the prime and each subcontractor will in accordance with Section 1776 of the Labor Code, maintain certified payroll records. A copy of said records shall be provided with each invoice to the Public Works Department, Attention Contract Compliance Officer. It shall be the CONTRACTOR'S responsibility to obtain copies of the current prevailing wage rate determination for all subcontractors. Additionally, certified payroll records must be uploaded to the DIR website as required by labor code.
- iv. The CONTRACTOR shall comply with the provisions established in Section 1777.5 of the Labor Code concerning the 1) certified approval by local joint apprenticeship committees for the employment and training of apprentices, and 2) contribution of funds to administer and conduct apprenticeship programs, if applicable to the job.

e. LOCAL EMPLOYMENT ORDINANCE

Pursuant to Stockton Municipal Code Section 3.68.095 the CONTRACTOR and all subcontractors shall make a good faith effort to employ at least 50 percent of the workforce on this project from local residents, as measured by total labor work hours. Failure of any CONTRACTOR or subcontractor to comply with these requirements shall be deemed a material breach of the contract or subcontract. CONTRACTORS and subcontractors shall maintain records necessary for monitoring their compliance with section 3.68.095.

7. CHANGE ORDERS. CITY reserves the right to make such alterations, deviations, additions to or omissions from the plans and specifications, including the right to increase or decrease the quantity of any item or portion of the work, as may be deemed by the Project Manager to be necessary or advisable and to require such extra work as

may be determined by the Project Manager to be required for the proper completion of the whole work contemplated.

Any such changes will be set forth in a contract change order which will specify, in addition to the work done in connection with the change made, adjustment of contract time, if any, and the basis of compensation for such work. A contract change order will not become effective until approved by the City Manager and/or the City Council.

8. RIGHTS AND DUTIES OF CITY. CITY shall make available to CONTRACTOR all data and information in the possession of CITY which both parties deem necessary to complete the work, and CITY shall actively aid and assist CONTRACTOR in obtaining such information as may be deemed necessary from other agencies and individuals.

9. OBLIGATIONS OF CONTRACTOR. Throughout the term of this Contract, CONTRACTOR represents and warrants that it has or will have at the time this Contract is executed, all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required for the CONTRACTOR to practice its professions, and CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Contract all such licenses, permits, qualifications, insurance, and approvals. CONTRACTOR shall meet with the Public Works Director or other personnel of CITY or third parties as necessary on all matters connected with the carrying out of CONTRACTOR'S services. Such meetings shall be held at the request of either party hereto. CONTRACTOR further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

10. TERMINATION. This Agreement is effective on the Effective Date. The City may terminate this Contract and work pursuant to any of all scope of works at any time by mailing a notice in writing to Contractor. The Contract shall then be deemed terminated and no further work shall be performed by Contractor. If the Contract is so terminated, the Contractor shall be paid for that percentage of work actually completed at the time the notice of termination is received.

11. CONTRACTOR STATUS. In performing the obligations set forth in this Contract, CONTRACTOR shall have the status of an independent contractor and CONTRACTOR shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of CONTRACTOR are its agents and employees, and are not agents of the CITY. Subcontractors shall not be recognized as having any direct or contractual relationship with the CITY. The persons engaged in the work, including employees of subcontractors and suppliers, will be considered employees of CONTRACTOR. The CONTRACTOR shall be responsible for the work of subcontractors, which shall be subject to the provisions of this Contract. The CONTRACTOR is responsible to the CITY for the acts and omissions of its subcontractors and persons directly or indirectly employed by them.

- a. If in the performance of this Contract any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by CONTRACTOR.
- i. It is further understood and agreed that CONTRACTOR must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONTRACTOR'S personnel.
- ii. As an independent contractor, CONTRACTOR hereby indemnifies and holds CITY harmless from any and all claims that may be made against the CITY based upon any contention by any third party that employer-employee relationship exists by reason of this Contract.

12. ASSIGNMENT. CONTRACTOR shall not assign, sublet, or transfer this Contract or any interest or obligation in the Contract without the prior written consent of the CITY, and then only upon such terms and conditions as CITY may set forth in writing. CONTRACTOR shall be solely responsible for reimbursing subcontractors.

13. HEADINGS NOT CONTROLLING. Headings used in the Contract are for reference purposes only and shall not be considered in construing this Contract.

14. NOTICES. Any and all notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

<p>To CONTRACTOR: Otis Elevator Company 4604 Roseville Road, Ste 112 North Highlands, CA 95660</p>	<p>To City: Public Works Director City of Stockton 22 E. Weber Ave., Rm. 301 Stockton, CA 95202</p>
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15. LICENSES, CERTIFICATIONS, AND PERMITS. Prior to the CITY'S execution of this Contract and prior to the CONTRACTOR engaging in any operation or activity set forth in this Contract, CONTRACTOR shall obtain a City of Stockton business license, which must be kept in effect during the term of this Contract. CONTRACTOR covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Contract.

16. RECORDS AND AUDITS. CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Contract. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance.

CONTRACTOR agrees that CITY or its delegate shall have the right to review,

obtain, and copy all records pertaining to performance of the Contract. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested, and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purposes of determining compliance with this Contract. CONTRACTOR agrees to maintain such records for a period of three years from the date that final payment is made.

17. CONFIDENTIALITY. CONTRACTOR shall exercise reasonable precautions to prevent the unauthorized disclosure and use of CITY'S reports, information, or conclusions.

18. CONFLICTS OF INTEREST. CONTRACTOR covenants that other than this Contract, CONTRACTOR has no financial interest with any official, employee, or other representative of the CITY. CONTRACTOR and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner or degree by the performance of CONTRACTOR'S services under this Contract. If such an interest arises, CONTRACTOR will immediately notify CITY.

19. WAIVER. In the event either CITY or CONTRACTOR at any time waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Contract, whether of the same or of any other covenant, condition, or obligation.

20. GOVERNING LAW. California law shall govern any legal action pursuant to this Contract with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the federal District Court of California, Northern District, Sacramento Division.

21. DISPUTE RESOLUTION. Prior to undertaking any litigation, the Parties shall make reasonable efforts to resolve all disputes informally, including by means of a conference between senior managers of each Party having authority to resolve the dispute.

1. **Venue**
Any controversy or claim between the Parties shall be determined with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the federal District Court of California, Northern District, Sacramento Division.
2. If any litigation action or proceeding is commenced in connection with this Agreement, the prevailing Party, as determined by the court, shall be entitled to reasonable attorneys' fees (including allocated costs for in-house legal services), costs and necessary disbursements incurred in such action or proceeding.

26. **AUTHORITY.** The undersigned hereby represent and warrant that they are authorized by the parties to execute this Contract.

IN WITNESS WHEREOF: the parties have executed this Contract the day and year first hereinabove written.

CITY OF STOCKTON

OTIS ELEVATOR COMPANY

By: _____
KURT O. WILSON
CITY MANAGER

By: Nikki Windham 5.3.18
Signature

ATTEST:

Nikki Windham, General Manager
Print Name

By: _____
BRET HUNTER
CITY CLERK

Title: _____

APPROVED AS TO FORM:

By: _____
DEPUTY CITY ATTORNEY

THE UNDERSIGNED HAS BEEN GRANTED
SPECIFIC AUTHORITY ONLY TO SIGN
THIS CONTRACT SUBJECT TO THE OTIS
ACKNOWLEDGEMENT LETTER DATED
5.1.18 ATTACHED HERETO AND
MADE PART HEREOF

NON-COLLUSION DECLARATION
(Title 23 United States Code Section 112 and Public
Contract Code Section 7106)

To the CITY of STOCKTON DEPARTMENT OF PUBLIC WORKS.

The undersigned declares:

I am the asst. manager of DT's, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 8-21-17 at Sacramento (city), CA (state).


(Signature)

**DEPARTMENT OF INDUSTRIAL RELATIONS
LABOR COMPLIANCE
SELF-CERTIFICATION**

We, the undersigned, self-certify that we will comply with all California Department of Industrial Relations (DIR) laws, rules and regulations that apply to Public Work as defined in Labor Code Section 1720(a)(1), as well as Senate Bill 854 (2014), and all other related statutes.

In addition, we acknowledge that to be eligible to bid on City of Stockton Public Works projects, we and all subcontractors under us are registered, and will remain registered with the DIR until project completion; otherwise, we will be disqualified from consideration as a bidder for the subject project.

CONTRACTOR: Otis

BY: Rose Speneer

TITLE: Account manager

DATE: 8.21.17

TITLE VI VIOLATION SELF-CERTIFICATION


We, the undersigned, self-certify that pursuant to Federal Code of Regulations (CFR), 23 CFR 200.9, 633 and 49 CFR 21.7, ^{that to the best of our knowledge} we do not have any unresolved violations under Title VI of the Civil Rights Act of 1964 and related statutes, including Americans with Disabilities Act (ADA). In addition, we acknowledge that an unresolved Title VI violation will disqualify us for consideration as a bidder for the subject project.

CONTRACTOR: OTIS

BY: Rose Spencer

Account manager
TITLE

DATE: 8.21.17

	SPECIAL PROVISIONS	PROJECT NO: O&M 18-087 Page 1 of 6
		3-22-18
Elevator Maintenance and Repair Services		

REQUEST FOR PROPOSAL

The City of Stockton is requesting proposals to provide elevator maintenance and repair services pursuant to Project No. O&M 18-087 and California Code of Regulations, Title 8, Elevator Safety Orders.

The City intends to award a three-year contract, with option to renew, to the bidder selected as the most responsible bidder whose response conforms to the Request for Proposal and meets the City's requirements.

PROPOSAL DUE DATE

Proposals are to be submitted no later than **3:00 PM on April 16, 2018**.

Submittals shall be placed in a clearly marked envelope with the Project Name and Number on the envelope. The suggested fee for service shall be submitted in a separate, sealed envelope. Any proposals received after the due date will not be accepted.


Proposals shall be delivered or mailed to:

Miguel Mendoza
 Steward Eberhardt Building
 22 E. Weber Ave., Room 301
 Stockton, CA 95202-2326

If you have questions regarding this project, please contact Jennifer Booth at (209) 937-7582 or Jennifer.Booth@stocktonca.gov.

DESCRIPTION OF WORK

The City of Stockton is seeking proposals from qualified proposers, hereinafter referred to as the Contractor, to provide complete elevator maintenance and repair services in accordance with the terms, conditions, and specifications contained in Exhibit 1, Scope of Work. Contractor will furnish all material, labor, supervision, tools, supplies and equipment necessary to provide full maintenance service, including all inspections, adjustments, tests, parts or component replacements, and repairs to keep the elevators in continuous use at their established capacity and efficiency and for their intended purpose. All maintenance adjustments and repairs shall be in compliance with the latest California Code of Regulations, Title 8, Elevator Safety Orders.

	SPECIAL PROVISIONS	PROJECT NO: O&M 18-087 Page 2 of 6
		3-22-18
Elevator Maintenance and Repair Services		

MATERIALS

Materials related to all maintenance and repair services as listed in Exhibit 1, shall be furnished by the Contractor.

INSURANCE REQUIREMENTS

Contractor shall provide insurance in the form and amounts shown on the "Instructions to Proposers" which is Exhibit 4.

LOCAL BUSINESS PREFERENCE

Stockton Municipal Code Section 3.68.090 applies to this project.

Preference shall be given to the purchase of supplies, materials, equipment, and contractual services from local merchants, quality and price being equal.

Local merchants who have a physical business location within the boundaries of San Joaquin County, and who have applied for and paid a business license tax and registration fee pursuant to Stockton Municipal Code Title 5, Chapter 5.08, License Taxes, shall be granted two (2) percent bid preference.


Local merchants who have a physical business location within the boundaries of the City of Stockton, and who have applied for and paid a business license tax and registration fee pursuant to Stockton Municipal Code Title 5, Chapter 5.08, License Taxes, shall be granted five (5) percent bid preference.

LICENSING

Contractor shall maintain a C-11 Elevator Contractor License issued by the California Contractors State License Board is required for this project. Contractor must meet the requirements of a Certified Qualified Conveyance Company (CQCC) and maintain certification issued by the California Department of Industrial Relations.

Any professional certifications or licenses that may be required will be the sole cost and responsibility of the successful proposer.

Contractor shall possess a City of Stockton Business License. Contractor is not required to have the business license to propose on this work. The contractor selected to perform this work must obtain a City of Stockton Business License prior to a purchase order being issued for this work.

	SPECIAL PROVISIONS	PROJECT NO: O&M 18-087 Page 3 of 6
		3-22-18
Elevator Maintenance and Repair Services		

CONTRACTOR QUALIFICATIONS

Contractor shall have been established in the elevator maintenance business for a period of at least five (5) years prior to the date of this proposal and have a functioning service operation of sufficient size to satisfactory execute this contract. Contractor shall provide workers who meet and maintain the requirements of a Certified Competent Conveyance (Elevator) Mechanic (CCCM) for all applicable work.

Minimum Age Requirement: All employees of the Contractor must be a minimum of 18 years of age.

Conflict of Interest: The Contractor shall not employ any person who is an employee of the City if the employment of that person would create a conflict of interest.

PROPOSAL REQUIREMENTS

Proposals must include a narrative response to the following requested information.

A. Introduction

Briefly introduce the proposal, including a statement of the Contractor's approach to providing on-call elevator maintenance and repair services for the City of Stockton. Provide the name of the company submitting the proposal, mailing address, telephone number, email address, and the name of the contact person.

B. Statement of Qualifications/Responsiveness

- a. Describe management personnel's experience with accounts of similar size and scope, company structure, and staff assigned to the resulting agreement. Include a detailed description of your company, employee position categories and current number of employees in each category.
- b. Include an outline of any experience your company has had in meeting the needs of other similarly sized organizations. Detail any involvement, past or current, relative to litigation or other disputes, if any, concerning your performance with any clients to whom your company has provided services.
- c. List all contracts canceled or not extended. State any and all instances of being disqualified, removed, or otherwise prevented from completing the terms of any previous contracts over the past five (5) years. Give names, street addresses, and phone numbers and explain the circumstances.

C. Resources and Service Description

Include a comprehensive description of the resources and methodology that will be used to



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Elevator Maintenance and Repair Services

complete the requested services.

D. Staff Process

- a. Include a work plan of how you will staff and supervise the contracted services.
- b. Provide a complete overview of all training programs provided.
- c. List the full or part-time status of each employee that will be assigned to this Contract as well as a complete organizational chart for your company. Provide information on the training and certifications maintained by each individual.
- d. Describe the designated Contractor's Project Manager's role in the supervision and delivery of contract services as well as the availability of a supervisor and contingency plans when not available.

E. Liability Issues

Discuss how your company handles damage or theft claims.

F. Logistics

Describe how your company will make available the equipment and parts needed to perform all work, where your company is based and where your company will store parts.

G. Billing Invoicing


Describe your company's billing and accounting system, as it will relate to this Contract. Describe your capability to customize invoices to meet the City of Stockton's needs. Attach samples of your company's billing forms and invoices.

H. Reports

Discuss management reports and quality assurance methods and their frequency. Emphasize how you would customize reports for the City that will show work accomplished labor hours and parts consumed by each site. Attach sample reports.

I. Computerized Maintenance Management Systems

Describe how your company has integrated a customer's provided computerized maintenance management systems for tracking assigned work orders, and resource reporting.

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PROPOSAL SCORING CRITERIA

Proposals will be selected using a “best value” methodology based on the following categories.

Price (25 points)	Local business preference applies as defined by Stockton Municipal Code 3.68.090.
Experience (20 points)	Previous experience in providing a superior level of service on like-sized public and/or private projects.
Quality of Work (20 points)	Assessments of work quality, performance, and working relationships by current and recent clients that indicate high levels of satisfaction and effectiveness.
Qualifications of Staff (20 points)	Qualifications of proposed staff to be assigned to the project.
Communications Capabilities (10 points)	Well organized communication systems and reporting capabilities that demonstrate an ability to complete tasks efficiently and effectively and do not require constant supervision by the City.
Report and Invoices (5 points)	Effectiveness and clarity of sample reports and invoices utilized by the company.

REQUEST FOR SEALED BID

The proposed fee for service shall be submitted in a separate, sealed envelope, and include the following information on the templates provided in Exhibit 2, Request for Sealed Bid.

- A. The Monthly Price, Load Test, and Annual Price should reflect the fixed rate for the initial three-year term of the Agreement. The price quoted shall include all taxes and all other charges, including travel expenses, and is the cost the City will pay for the three-year term of any contract that is a result of this bid.
- B. Bidder must submit a Monthly Price, Load Test, and Annual Price for additional Year Four and Year Five, each unit bid. Year Four and Year Five will be used for informational purposes only. These prices will not be used in the evaluation of the cost. Bidder agrees that prices quoted are the maximum they will charge during the renewal terms of any contract awarded as a result of this RFP.

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- C. Bidder shall provide hourly rates for work requested outside of this contracts scope. All rates quoted shall include travel time and mileage. No additional charge for travel, time or mileage will be acknowledged or paid for by the City.

Scope of Work

Elevator Maintenance and Repair Services

Description

The City of Stockton has ten (10) elevators and two (2) wheelchair lifts requiring “full-service” maintenance and repair in six (6) City-owned locations. Contractor will furnish all material, labor, supervision, tools, supplies and equipment necessary to provide full maintenance service, including all inspections, adjustments, tests, parts or component replacements, and repairs to keep the elevators and lifts in continuous use at their established capacity and efficiency and for their intended purpose. All maintenance adjustments and repairs shall be in compliance with the latest California Code of Regulations, Title 8, Elevator Safety Orders.

Monthly Price

The monthly price bid for each item listed in Exhibit 2, Request for Sealed Bid form, shall include all wages, payroll taxes, fringe benefits, insurance, transportation, equipment, materials, supplies, overhead and profit.

Contract Period

Any resultant Contract shall be effective from date of award or July 1, 2018 through June 30, 2021, a period of three (3) years. The City reserves the right to renew the Contract for an additional two (2) years.

Price Adjustment

No price adjustments will be made during the original three (3) year life of the Contract. If the City elects to exercise the option to renew the Contract, the Contractor may request price adjustment consideration prior to the first renewal. Price adjustment requests must be submitted in writing with thorough justification.

Contract Representative

During the performance of the contract, the City will be represented by a Project Manager, telephone number (209) 937-7582 or their designee.

Continued Use of Facilities

The buildings involved in this project will continue to be occupied during the term of the contract. Contractor work shall be performed in an orderly manner with minimum disturbance and inconvenience to the occupants. The Contractor shall confine and limit its personnel to only those areas required in performing the work.

Work accomplished on weekends or legal holidays if required by Contractor and authorized by the Project Manager shall be performed at no additional expense to the City.

Contract Performance Inspections

The City may retain the services of an independent consultant to inspect the work covered under this contract. The City will issue to the Contractor a list of any discrepancies reported by the consultant and the Contractor shall fix the discrepancies within three (3) calendar days from the date of issue, unless other completion dates are agreed upon by the City.

Notwithstanding any provision in this contract, the City will have no obligation to give more than two (2) notices of unsatisfactory performance in any calendar year. In the event two (2) such notices of unsatisfactory performance are given in any calendar year, the City may terminate this contract immediately.

CONTRACTOR RESPONSIBILITIES

The Contractor shall appoint a Project Manager who shall be responsible for the performance of the work and an alternate(s) who shall act for the Contractor when the Project Manager is absent. The names of these persons shall be designated in writing to the City. For this work, the term "Project Manager" shall include the alternate as specified above. The Project Manager, or their designee/alternate, shall be available during normal business hours to meet with City representative/s to discuss any problem areas.

The Contractor shall employ only workers who are competent and skilled for work under this contract. The City shall, throughout the term of the contract or any extension thereof, have the right of reasonable rejection and/or approval of staff assigned to the work by the contractor. If the Contract Administrator rejects one of Contractor's staff, the Contractor must provide replacement staff satisfactory to the City at no additional cost to the City. If, in the opinion of the City, any Contractor employee who is incompetent, disorderly, refuses to perform in accordance with the contract specifications, threatens or uses abusive language while on City property, or is otherwise unsatisfactory, shall be removed immediately from work under this contract upon request of the City.

Contractor shall provide contact information for both the Project Manager and alternate. The Project Manager shall have a telephone to permit timely contact by the City. The Project Manager must respond to a call within 30 minutes.

Should the Contractor choose to work on a closed Friday, Saturday, Sunday, or on a holiday recognized by the City, as provided in Exhibit 4, and that work requires inspection or supervision by the City, the contractor shall reimburse the City of Stockton the actual cost of engineering, inspection, superintendence, and or other overhead expenses which are directly chargeable to the project. Should such work be undertaken at the request of the City, reimbursement will not be required.

Contractor acknowledges it is an independent contractor and shall not for any purpose be deemed to be an employee, agent, or other representative of the City. Contractor shall not assign, sublet, transfer or otherwise substitute its interest in this work, or any of its obligations, without the prior written consent of the City. It is the intent of these specifications that all work is to be performed by Contractor's forces.

No unauthorized person or persons not employees of the Contractor (i.e., spouse, children, brother, sister, friends, etc.) shall be allowed within the immediate work area during the performance of services under this contract.

Wherever work is being performed, Contractor shall have a designated person at the work site that has the authority to respond to the Contract Administrator and/or any citizens about work details or priorities. This designated person shall be able to accurately and effectively communicate any essential information.

Contractor shall provide supervision to assure that tasks are performed to the standards set in these special provisions. Contractor is solely responsible for the day-to-day supervision and control of Contractor's employees. Personal supervision is not required, provided that equipment or other means are provided to enable the work crews to communicate with the Contractor at all times.

Contractor shall employ a sufficient number of staff to ensure performance of the work described. All work shall be performed by experienced staff directly employed by the Contractor. The Contractor shall provide management and technical supervision through competent supervisors as required to implement modern methods and any newly developed procedures. Contractor shall be responsible for the skills, methods, and actions of Contractor's employees and for all work.

Quality Assurance / Quality Control Program: Contractor shall have a quality assurance/quality control program that includes procedures that are required to ensure that work is being internally inspected and providing full protection of work and materials. Proposer shall submit details of their Quality Assurance Program as part of their proposal.

Inventory of Materials: Contractor shall provide a locally available supply of spare parts adequate for the performance of this contract within a reasonable time. If the lack of available parts causes extended elevator down time (24 hours or more) and parts are available from other local sources, Contractor will purchase the necessary parts locally at no additional cost to the City. If parts are not available locally, then contractor shall obtain outside of the City, and have the parts shipped, overnight if necessary, to repair the down elevator.

Contractor shall provide all supplies necessary to accomplish the required repairs and services. Materials and supplies shall conform to contract requirements and industry standards for the type of work being performed.

STANDARDS OF PERFORMANCE

Contractor is expected to provide the highest level of quality in compatible with practices and modern techniques accepted by the industry. The Public Works Director or designee(s) shall be the sole judge as to whether Contractor's work conforms to the specifications.

- A. Contractor and Contractor's personnel shall present a neat appearance. Contractor and Contractor's employee(s) shall wear a uniform which clearly identifies the Contractor's company and the employee.
- B. Contractor shall provide at their own risk, all labor, materials, supervision, tools, equipment, insurance, storage, transportation, hauling, dumping, proper protection and all other items needed, or as directed to perform the work described in this Scope of Work.
- C. Each work crew shall have a designated person on the work site that has the authority to respond to inquiries from any citizens encountered during the course of work and be able to communicate with the Public Works Director, Contract Administrator or other representative about work details and/or priorities. This designated person shall be able to accurately and

effectively communicate any information essential to the operation of the organization.

- D. All work shall be performed with the utmost concern for safety of city staff, the workers, and the public. Contractor is expected to be familiar with all areas and locations of the work and if they are not, shall have those questions answered before commencing work on this contract.
- E. On each visit to a building, prior to commencing work, Contractor or its employees shall notify the Project Manager or their designee of their presence and intent to work.
- F. At the conclusion of each day's work, the Contractor shall remove refuse, debris or waste materials and leave the premises in an orderly condition as required by the City.

WORKMANSHIP

Contractor is expected to respect all parties they encounter. Contractor shall perform work to the satisfaction of the Public Works Director or Designee/s. The Contractor shall cooperate with the Public Works Director or Designee/s to facilitate determination of contract compliance. If any work does not meet the standards specified, the Contractor will be responsible for correcting such deficiencies within five (5) working days or as directed by the Public Works Director or Designee/s. Corrections shall be at no additional cost to the City of Stockton. Contractor is expected to use additional personnel for corrections. There shall be no delay of regular maintenance to complete corrections.

DAMAGE TO IMPROVEMENTS AND PROTECTION OF PROPERTY

Contractor shall be held responsible for the preservation and protection of all public and private property and improvements adjacent to the work area and shall exercise due caution to avoid and prevent any damage to adjacent property and/or improvements. Should any direct or indirect damage or injury result to any public or private property or to any persons encountered in the course of work on account of any act, omission, neglect, or misconduct in the execution of the work, or as a consequence of non-execution thereof on the part of the Contractor or any of their employees or agent, such property or person shall be restored and made whole at the expense of the contractor.

Where personal property may be affected by Contractor's operations that the Contractor cannot effectively protect, Contractor shall notify the potentially affected property owner(s) prior to the operations so that steps can be taken to protect the personal property. Contractor shall notify City within 24 hours of any damage to any City or private amenities/improvements/property caused by Contractor.

Contractor shall take all reasonable measures to prevent accidental spills of fuel or oil for Contractor's equipment. In the event of such spill, immediately remove all spilled material, properly dispose of the spilled material and any material used in clean-up/absorption of the spilled material, and, if necessary, notify the proper authorities in accordance with applicable law.

Where personal property may be affected by Contractor's operations that the Contractor cannot effectively protect, Contractor shall notify the potentially affected property owner(s) prior to the operations so that steps can be taken to protect the personal property. Contractor shall notify City within 24 hours of any damage to any City or private amenities/improvements/property caused by Contractor.

SAFETY

Contractor shall be solely responsible for the safety and welfare of all Contractor's personnel performing work under this contract. Contractor is solely responsible for advising and educating all potentially affected personnel about the health hazards associated with this work prior to personnel commencing work under this contract. Contractor shall have an injury and illness prevention program (IIPP) in accordance with applicable Local, State, and Federal Laws and shall provide a copy of the program to the City.

All work shall be performed with the utmost concern for safety of city staff, the workers, and the public. Where necessary, contractor shall barricade or temporarily close to the public those areas where work is being performed.

LANE CLOSURES AND TRAFFIC CONTROL

Any contemplated lane closures must have prior approval by the City. The Contractor shall provide the City Representative a work schedule and schedule of any contemplated lane closures. All traffic control shall conform to the Work Area Traffic Control handbook, a.k.a. the WATCH Manual.

WORK AND MATERIALS FURNISHED

The Contractor work to be performed shall consist of furnishing all materials, labor, tools and equipment required to provide 100% maintenance and repair services for the elevators and lifts described in Exhibit 2, Request for Sealed Bid, all in complete compliance herein. Any work not specifically mentioned, but which is needed to make the work complete within the intent of the scope, shall be performed without additional cost.

- A. Furnish consumable supplies such as rags, cleaning materials, solvents, preservatives oil grease and other lubricants necessary to clean and lubricate the equipment as required.
- B. When required or necessary, adjust, repair, or replace machine, motor, generator and controller parts including: generator, worm gears, thrusts, bearings, brake magnet coils, brake shoes, brushes, windings, communicators, armature coils, contacts, resistance unit, magnet frames, sheaves, shafts, bearings, plungers, pumping plants, tanks, piping, operating valves and all other mechanical parts in accordance with original equipment manufacturers' specifications.
- C. Supply, repair, clean and replace all parts as required by wear and tear.
- D. Lubricate guide rails and, when necessary, repair or renew car guide shoes, counter –weight guide shoes and gibs; adjust or replace belts and, when necessary, equalize the tension on all hoisting ropes; renew, when necessary, all wire rope cables, and repair or replace conductor trail cables; replace fuses and indicator bulbs in operating panels, stations and indicators; renew, when necessary, wiring for shaftway door interlocks, and for push button and car operating stations; and repair or replace renewal parts of the automatic car door operator and their accessory equipment. Replace broken/burned out light bulbs inside the elevator cars. Extra bulbs can be stored at the site.
- E. Keep equipment pits and machinery spaces clean, including pits exposed to outside elements. Elevator pit sump pumps will be repaired by the City should regular cleaning and maintenance be done properly by the contractor; however, Contractor shall notify the Project Manager in writing of any malfunction.

- F. Test emergency lighting, fireman service and other emergency operating devices and seismic operation on a monthly basis. Check intercoms/telephones during each service visit.
- G. Test all safety devices, governors, buffers, etc., per ANSI and National Elevator Safety Code, State, or manufacturers specification requirements and periodicities. Contractor shall promptly correct any defects that may be found during the testing and examining of the safety devices, and shall send a notice to the Project Manager advising of the tests and corrections. Testing shall be performed in the presence of the duly authorized City Representative and written reports of the test results shall be provided.
- H. The following tests shall be performed within the required periodicity for each unit, in accordance with each unit's testing and maintenance records, and in the presence of the duly authorized City Representative. A written report of the test results shall be provided to the Project Manager. No load tests shall be performed on electric elevators.
 - a. Buffer tests on oil buffers
 - b. By-pass settings and drift check on hydro elevators
 - c. Any testing required for California State Permitting
- I. Keep exterior of the machinery and any other parts of the equipment that are subject to rust, properly painted and presentable at all times. Motor windings and controller coils are to be periodically treated with proper insulating compound in accordance with manufacturers' specifications.
- J. Each elevator and its supporting machinery shall be maintained in accordance with the manufacturers' specifications and periodicities.

REQUIRED RESPONSE AND REPAIR TIMES

- A. Except for emergency call-back service and minor repairs and/or adjustments hereinafter provided for, all preventative maintenance work shall be performed during working hours. Regular working hours are from 7:00 a.m. until 5:00 p.m. Contractor shall reference the City's work schedule, as provided in Exhibit 4, when scheduling work or inspections.
- B. No equipment requiring repair shall be allowed to remain out of services due to lack of diligent effort by the Contractor. Any parts or equipment locally available will be purchased locally if necessary to expedite the job. Repairs shall begin and carried to completion, as soon as possible, unless other arrangements are approved by the City's Representative.
- C. Equipment shutdowns for regular maintenance or extra examinations must be scheduled at least three (3) days in advance with the designated City Representative as not to interfere with building operations during normal usage times.
- D. Contractor shall diligently prosecute work to minimize the time the property is open to the street/sidewalk/public access spaces. Contractor shall start work so it is completed before a weekend. Contractor shall not leave the property open to the street/sidewalk/public access spaces over a weekend.
- E. All maintenance work using equipment powered by an internal combustion engine, including, but not limited to, chain saws, blowers, chippers, and any other heavy equipment, is expected to be performed between the hours of 8:00 a.m. and 5:00 p.m.

EMERGENCY WORK – TROUBLE AND ENTRAPMENT CALLS

- A. When an elevator is reported stuck and passengers are entrapped, between normal business hours of 7:00 a.m. to 7:00 p.m. Monday through Friday, except if the day lands on a City Holiday, the Contractor's service technician is required to arrive to the reported site within thirty (30) minutes of the initial notification. For all other times, Contractor must be able to respond to emergencies by having a service person on-site within sixty (60) minutes for a stuck and occupied elevator.
- B. In the event an elevator is reported shut down without trapped passengers, Contractor's service person shall arrive to the site within two (2) hours notification.
- C. All work of a call-back nature or trouble and entrapment calls shall be treated as an emergency and work commenced shall be carried through to complete without delay. Provide 24-hour emergency call-back service for all equipment hereunder at no additional cost to the City. Emergency call-back service shall consist of prompt response to requests from authorized representatives for emergency service on any day of the week, at any hour of the day or night. An emergency call-back is defined as any necessity for maintenance, minor repair and/or adjustment of equipment between regular service calls to restore normal equipment operation. Failure to furnish emergency call-back service within the allotted time of notification of need could result in a deduction of 5% on billing and continued failure may result in Contract termination. Cost for emergency service described herein shall be included in the monthly rate of the contract.
- D. Contractor shall at all times, 24-hours per day, 7 days a week have a back-up mechanic on stand-by to respond to emergency call-backs or necessary after-hours repairs, in the minimum time frames as specified.

EQUIPMENT PERFORMANCE

- A. Operational performance standards for elevators maintained under this Contract are to be brought up to and maintained at manufacturer's standards or current Elevator Safety Orders of the California Code of Regulations, whichever is more stringent. These performance standards shall be maintained at all times during the Contract.
- B. Periodic checks of the condition and performance of equipment will be made by the duly authorized City Representative.
- C. Contractor shall also make adjustments in door waiting times, security access adjustments, etc., to suit building requirements when so requested by the Project Manager or their designee.
- D. Repairs or renewals necessitated by ordinary wear and tear only shall apply to this Contract, and the Contractor shall not be required to make adjustments, repairs, or renewals necessitated by reason of negligence on the part of others or by the misuse of the equipment. For any such repairs, adjustments or renewals that are outside the scope of this Contract, the Contractor will furnish a detailed justification and proof of negligence, and cost estimate for the services and materials necessary to correct the deficiency. If the repair proposal and justification is acceptable by the City, a separate purchase order will be issued. City reserves the right to get additional quotes.
- E. The repair, refinishing or replacement of the following are not included in this Agreement; car and hoistway enclosures; car and hoistway door panel frames and sills; power switches or

fuses for same; power wiring to the controller; hydraulic elevator cylinders and underground piping.

- F. The time and expense for emergency callback service shall be a part of this Contract. If the adjustment, repair, renewal etc. is determined to be outside the scope of this Contract, an extra charge will be allowed for the expenses required to make adjustments, repairs or renewals if the foregoing procedures are followed.

SCHEDULES AND RECORDS REQUIRED

- A. Contractor shall prepare and submit to the Project Manager a schedule giving the projected dates for all inspections, lubrication, adjustments, tests, cleaning, repairing and other maintenance activities for each unit to be maintained.
- B. These work schedules shall be designed for each type of equipment to be serviced, such as geared elevators, hydraulic elevators, and dumbwaiters, and shall conform to the manufacturer's recommended practice for the particular equipment concerned. They shall show the kind and frequency of service and lubrication proposed by the Contractor for the duration of the Contract. The Project Manager will evaluate and approve proposed work schedules. These records shall be the property of the City.
- C. After approval of schedules by the Project Manager, Contractor shall keep these work schedules on display in each equipment room and perform regular maintenance service in accordance therewith. Schedules posted shall be of the chart type that shall be initialed by the service worker when each scheduled inspection is performed.
- D. Contractor shall maintain an accurate record of routine and repair work for all work completed for the City through the City's computerized maintenance management system. Contractor shall accurately log work time, material, and labor for all completed work within two (2) business days. Training, set-up, and technical support will be provided by the City on the Contractor's provided computer system(s).
- E. Contractor shall also maintain an accurate and complete log of all work performed in addition to routine inspection at each location. These logs shall include emergency callback service describing the nature of all complaints and their resolution. The logs shall be kept in the equipment rooms at each location. These logs shall be the property of the City. In order to avoid repetitive service calls for the same service issues at the same site, after two (2) callbacks for the same service problem within a six (6) month period, all costs associated with the callbacks and repairs shall be the responsibility of the contractor and at no cost to the City.
- F. All forms required for the above schedules, work sheets, callback records, and performance reports must be approved by the Project Manager in writing.

WIRING AND CONSTRUCTION PRINTS

- A. All wiring and construction prints or diagrams of elevator and dumbwaiter systems in City buildings covered under this Contract are the property of the City and, upon expiration or termination of this Contract shall be returned to the Project Manager. All changes in circuitry made by the Contractor shall be properly recorded on the diagram, including date of change and name of person making change.
- B. All changes to diagrams and new diagrams furnished shall be maintained with existing records

kept in the elevator machine room.

- C. Existing straight line or schematic diagrams maintained in elevator machine room are to be kept in good condition and repair, so as to allow use of same. If deterioration or damage is done to the above diagrams, the Contractor shall supply a new set in conformance with above and mount in the elevator machine room.

SHUTDOWN PROCEDURE

- A. Any elevator that is shut down for any reason shall be immediately reported to the Project Manager or designee at 209-937-7582 with full disclosure of problem and procedures being taken to reactivate the equipment along with projected startup time. Should the unplanned or pre-approved shutdown be an extended period of time, the City reserves the right to “pro-rate” the maintenance charge for the period of shutdown.
- B. When the elevator is shut down, Contractor shall place an “Out of Order” sign at all entrances to the elevator.

CITY OF STOCKTON
ELEVATOR MAINTENANCE AND REPAIR SERVICES
PROJECT NO: O&M 18-087

List of Equipment by Location

Police Department Main 22 E. Market Street	Hydroelectric Passenger Elevator #050202
Cesar Chavez Central Library 605 N. El Dorado Street	Hydroelectric Passenger Elevator #039838 Hydroelectric Passenger Elevator #039839 Basement Traction Dumbwaiter Elevator #039840
City Hall 425 N. El Dorado Street	Overhead Traction Passenger Elevator #010668 Overhead Traction Passenger Elevator #010669 Overhead Traction Passenger Elevator #010670
SEB Building 22 E. Weber	Hydro Passenger Elevator #120197 Hydro Passenger Elevator #120355 Hydro Passenger Elevator #136717
Permit Center 345 N. El Dorado Street	Vertical Platform Lift
Podesto Teen Center 725 N. El Dorado St.	Wheelchair Lift Elevator #140075



Otis

A United Technologies Company

4604 Roseville Road, Suite 112
Sacramento CA 95660

Mrs. Jennifer Booth

Thank you for the opportunity to bid on City of Stockton elevators. We have enjoyed our partnership since 2016 and look forward to continuing our relationship.

Please do not hesitate to contact me with any questions or comments in the future.

Thank you,

Rose Spencer

Account Manager- Otis Elevator Company





DATE: 04/15/2018

TO:

City Of Stockton
Public Works Director
22 E. Weber Ave Rm 301
Stockton, CA 95202

FROM:

Otis Elevator Company
4604 Roseville Rd #112
North Highlands, CA 95660

EQUIPMENT LOCATION:

Stockton Police Departmen
22 E. Market St
Stockton, CA 95202

Rose Spencer
Phone: (916) 339-4196
Fax: (916) 244-2079

PROPOSAL NUMBER: AK3138

EQUIPMENT DESCRIPTION:

No Of Units	Type Of Units	Manufacturer	Customer Designation	Machine Number
1	DUMBWAITER	INDEPENDENT	DW	F78517
3	GEARED	MOTION CONTROL ENG.MCE)	ELEV 1, ELEV 2, ELEV 3	F78512, F78513, F78514
2	HYDRAULIC	DOVER	PUBLIC, STAFF	F78515, F78516
1	HYDRAULIC	MOTION CONTROL ENG. (MCE)	ELEV 1	F78507
3	HYDRAULIC	OTIS ELEVATOR COMPANY	SVC , PASS PASS	F78509, F78510, F78511
2	OTHER	INDEPENDENT	WCL, WCL	F78508, F78518

OTIS MAINTENANCE

We propose to furnish Otis Maintenance on the equipment ("Units") described above. Otis Maintenance is a full preventive maintenance service intended to protect your investment, extend equipment life, and provide a high level of performance and reliability.

OTIS MAINTENANCE MANAGEMENT SYSTEMSM

We will use the Otis Maintenance Management System preventive maintenance program to deliver service tailored to your specific building needs. Equipment type, component life, equipment usage, and building environment will be taken into account by the OMMS[®] scheduling system, which will be used to plan maintenance activities in advance. The Units will be provided with devices to monitor equipment usage. We will use OMMS standard work processes developed and continuously improved by Otis.

Under this Contract, we will maintain the Units on the following terms and conditions:

PERFORMANCE**MAINTENANCE**

We will maintain the Units using trained personnel directly employed and supervised by us. The maintenance will

include inspection, lubrication, and adjustment of the following parts:

- Controller parts, selectors and dispatching equipment, relays, solid-state components, transducers, resistors, condensers, power amplifiers, transformers, contacts, leads, dashpots, timing devices, computer and microcomputer devices, steel selector tapes, mechanical and electrical driving equipment, signal lamps, and position indicating equipment.
- Door operators, car door hangers, car door contacts, door protective devices, load weighing equipment, car frames, car safety mechanisms, platforms, car and counterweight guide shoes including rollers and gibs, and emergency car lighting.
- Hoistway door interlocks and hangers, bottom door guides, and auxiliary door closing devices.
- Machines, worms, gears, thrust bearings, drive sheaves, drive sheave shaft bearings, brake pulleys, brake coils, contacts, linings, and component parts.
- Motors, brushes, brush holders, and bearings.
- Governor components, governor sheaves and shaft assemblies, bearings, contacts, governor jaws, deflector or secondary sheaves, car and counterweight buffers, car and counterweight guide rails, car and counterweight sheave assemblies, top and bottom limit switches, governor tension sheave assemblies, and compensating sheave assemblies.
- Pumps, pump motors, operating valves, valve motors, leveling valves, plunger packings, exposed piping, above ground plungers and cylinders, and hydraulic fluid tanks.
- Escalator handrails, handrail drive chains, handrail brush guards, handrail guide rollers, alignment devices, steps, step treads, step wheels, step chains, step axle bushings, comb plates, floor plates, tracks, external gearing, and drive chains.
- Escalator upper drives, upper drive bearings, tension sprocket bearings, upper newel bearings and lower newel bearings, demarcation lights, and comb lights.

RELIABILITY

PARTS COVERAGE

If necessary, due to normal usage and wear, Otis will repair or replace any of the parts specified above at their sole discretion, unless specifically excluded elsewhere in the contract. Any parts under this Contract requiring replacement will be replaced with parts selected by Otis.

PARTS INVENTORY

We will during the term of this Contract maintain a supply of frequently used replacement parts and lubricants selected by Otis to meet the specific routine requirements of the Units. Any replacement parts stored in the machine room remain our property until installed in the Units. We further agree to maintain a supply of routine replacement parts available for express delivery in case of emergencies.

QUALITY CONTROL

We will periodically conduct field audits of our personnel and the Units to maintain quality standards. Otis field engineers will provide technical assistance, technical information, and Code consultation to support our maintenance organization.

RESPONSIVENESS

24-HOUR DISPATCHING

We will, at your request, provide you with access to eService and our OTISLINE 24-hour, year-round dispatching service. In the event a Unit malfunction occurs between regular examinations, you will be able to place a service call on eService or through an OTISLINE customer service representative, who will, at your request, dispatch an examiner to perform service. In the event Otis receives an emergency call from the phone in the elevator and a passenger indicates a need for assistance, Otis shall attempt to contact a building representative for an assessment of the situation and authorization to respond to the call. If Otis is unable to reach a building representative, Otis shall respond to the emergency call from the phone in the elevator. The visit will be treated as a Callback. It is your responsibility to: (a) have a representative available to receive and respond to OTISLINE calls; and (b) maintain working telephone equipment.

COMMUNICATION

CUSTOMER REPRESENTATIVE

As a service to you, and at your request an Otis representative will be available to discuss with you your elevator needs in the areas of modernization, traffic handling ability, recommendations and requirements of Code authorities, proper use and care of the Units, and the OMMS program. There is no additional charge for this consulting service, but by making this service available to you, Otis does not assume any duty to warn.

REPORTS – eSERVICE

We will use the OMMS program to record completion of maintenance procedures. We will, at your request, provide you access to eService. You will be able to access twelve (12) months of repair, completed maintenance procedure and service call history for the Unit(s). You will be responsible for obtaining Internet access to use eService.

SAFETY AND ENVIRONMENT

SAFETY TESTS – TRACTION ELEVATORS

We will periodically examine safety devices and governors of the Units. We will conduct an annual no load test and perform at each fifth year a full load, full speed test of safety mechanisms, overspeed governors, and car and counterweight buffers. If required, the governor will be recalibrated and sealed for proper tripping speed, and elevator car balances will be checked.

As required by Code, or once every five years at a minimum, we will measure the coated steel belts for safety using a method approved by the manufacturer.

SAFETY TESTS – HYDRAULIC ELEVATORS

We will conduct an annual no load test and annual pressure relief valve test.

FIREFIGHTERS' SERVICE TEST

If the equipment has firefighters' service, you assume responsibility for performing and keeping a record of any Code required tests and for the maintenance, functioning and testing of the smoke and/or heat detectors.

If during the initial firefighters' service test any elevator firefighters' service is found to be inoperable, the building will be responsible for all of the cost associated with the repairs necessary to bring the unit in compliance with the applicable Codes.

If any applicable Code or governing authority mandates that such required tests be performed by a licensed elevator mechanic, Otis will provide such testing and service on an Open Order basis. You will be responsible for the costs associated with such testing and service.

SAFETY TRAINING

We will instruct our personnel to use appropriate personal protection equipment and follow safe work practices.

ENVIRONMENTAL PROTECTION

Otis endeavors to reduce generation of waste materials, to minimize risks to the environment, customers, the general public and Otis employees, and to comply with all federal and state environmental laws and regulations. Material Safety Data Sheet (MSDS) Manuals are available for review at your request.

You assume responsibility for removal of wastes, including but not limited to hydraulic oil, spoils, asbestos, etc., as it is not part of this Contract.

MAINLINE DISCONNECTS

You agree to engage a qualified electrician to service at least once annually the elevator mainline disconnects located in the elevator equipment room.

SHARED RESPONSIBILITY

You agree to provide us unrestricted ready and safe access to all areas of the building in which any part of the Units are located and to keep all machine rooms and pit areas free from water, stored materials, and debris. You agree to provide a safe work place for our personnel, and to remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations.

If any Unit is malfunctioning or is in a dangerous condition, you agree to immediately notify us using the 24-hour OTISLINE service. Until the problem is corrected, you agree to remove the Unit from service and take all necessary precautions to prevent access or use.

You agree to properly post, maintain, and preserve any and all instructions or warnings to passengers in connection with the use of any Units.

In furtherance of OSHA's directive contained in 29 C.F.R. § 1910.147(f)(2)(i), which requires that a service provider (an "outside employer") and its customer (an "on-site employer") must inform each other of their respective lock out/tag out ("LOTO") procedures whenever outside servicing personnel are to be engaged in control of hazardous energy activities on the customer's site, Otis incorporates by reference its mechanical LOTO procedures and its electrical LOTO procedures. These procedures can be obtained at www.otis.com by (1) clicking on "The Americas" tab on the left side of the website; (2) choosing "US/English" to take you to the "USA" web page; (3) clicking on the "Otis Safety" link on the left side of the page; and (4) downloading the "Lockout Tagout Policy Otis 6.0" and "Mechanical Energy Policy Otis 7.0," both of which are in .pdf format on the right side of the website page. Customer agrees that it will disseminate these procedures throughout its organization to the appropriate personnel who may interact with Otis personnel while Otis personnel are working on site at Customer's facility.

WORK SCHEDULE

NORMAL HOURS

All maintenance procedures and repairs will be performed during our regular working hours of our regular working days for the examiners who perform the service. All lamp and signal replacements will be performed during regular examinations.

For purposes of this Contract, a Callback is a response by Otis to a request for service or assistance made (a) by the customer or customer representative, (b) by the building or building representative; (c) by emergency personnel; (d) through the ADA phone line, and/or (e) through REM® monitoring system, for service or assistance, on an as needed basis, excluding regularly scheduled maintenance.

Regular working hours: 8:00 AM – 4:30 PM.

Regular working days: Monday – Friday excluding holidays.

OVERTIME

Callbacks outside of regular working hours will be billed at standard overtime rates.

OWNERSHIP AND LICENSES

WIRING DIAGRAMS

You agree to provide us with current wiring diagrams reflecting all previously made changes for Units covered by this Contract to facilitate proper maintenance of the equipment. We shall maintain the wiring diagrams so that they properly reflect any changes made by Otis to the equipment. These diagrams will remain your property.

OTIS SERVICE EQUIPMENT

Any counters, meters, tools, remote monitoring devices, or communication devices which we may use or install under this Contract remain our property, solely for the use of Otis employees. Such service equipment is not considered a part of the Units. You grant us the right to store or install such service equipment in your building and to electrically connect it to the Units. You will restrict access to the service equipment to authorized Otis personnel. You agree to keep the software resident in the service equipment in confidence as a trade secret for Otis. You will not permit others to use, access, examine, copy, disclose or disassemble the service equipment or the software resident in the service equipment for any purpose whatsoever. If the service is terminated for any reason, we will be given access to your premises to remove the service equipment, including the resident software, at our expense.

OTIS SOFTWARE

Software owned by Otis may be embedded in parts or otherwise provided by Otis as part of this maintenance agreement. You have the right to use this software only for operation of the units for which the part was provided. You may also make a backup or archival copy of the software, provided you reproduce the copyright notice and any other legend of ownership on the copy. You may not otherwise copy, display, adapt, modify, distribute, reverse assemble, reverse compile, or otherwise translate the software. You will not transfer possession of the software except as part of a transfer of ownership of the Units and the assumption of the rights and obligations under this agreement by the transferee.

NON-OTIS SOFTWARE

You retain your rights to any software not provided by Otis contained in the Units and agree to allow Otis to make one backup or archival copy for you.

SERVICE TOOLS

You are responsible to secure our right to use any special service tools required to maintain your non- Otis equipment. These tools must be provided prior to us beginning maintenance on such equipment.

THE UNITS

It is agreed that we do not assume possession or control of the Units, that such Units remain yours solely as owner and operator, lessee, or agent of the owner or lessee, and that you are solely responsible for all requirements imposed by any federal, state, or local law, Code, ordinance or regulation.

CLARIFICATIONS

This Contract does not cover car enclosures (including, but not limited to, wall panels, door panels, car gates, plenum chambers, hung ceilings, lighting, light diffusers, light tubes and bulbs, handrails, mirrors and floor coverings), rail alignment, hoistway enclosures, hoistway gates, hoistway inserts and brackets, mainline disconnect switches, doors, door frames, sills, swing door hinges and closing devices, below ground or unexposed hydraulic cylinders and plungers, buried or unexposed piping, escalator balustrades, escalator lighting or wedge guards. Without affecting our obligation to provide service under this Contract, you agree to permit us to train our personnel on the Units. This Contract does not cover computer and microcomputer devices, such as terminal keyboards and display units that are not exclusively dedicated to the elevator system. This Contract does not cover telephones installed by others, intercoms, heat sensors, smoke sensors, communications equipment, or safety signaling equipment, or instructions or warnings in connection with use by passengers.

We will not be required: (i) to make any tests other than that as specifically set forth herein; (ii) to make any replacements with parts of a different design or type; (iii) to make any changes in the existing design of the Units; (iv) to alter, update, modernize or install new attachments to any Units, whether recommended or directed by governmental authorities or by any third party; (v) to make repairs or replacements necessitated by failures detected during or due to testing of the Units or buried or unexposed hydraulic cylinders or piping and (vi) to replace or repair any component or system utilizing obsolete or discontinued parts, including parts for which the original design is no longer manufactured by the original equipment manufacturers, or parts where the original item has been replaced by an item of different design or is replaceable only by fabrication; (vii) to provide reconditioned or used parts; (viii) to make any replacements, renewals, or repairs necessitated by reason of any cause beyond our control including, but not limited to, fire, explosion, theft, floods, water, weather, earthquake, vandalism, misuse, abuse, mischief, or repairs by others.

You assume responsibility for the cost of correcting all Elevator Code violations existing on the date we enter into this Contract. If such Code violations or other outstanding safety violations are not corrected in accordance with this Contract, Otis may with respect to the equipment not meeting Code requirements cancel this Contract without penalty by providing thirty (30) days written notice.

Should you require us to interface with a third party work order, insurance or safety systems, Otis will add an appropriate fee to cover the additional cost associated with this service.

Neither party shall be liable for any loss, damage or delay due to any cause beyond our reasonable control including, but not limited to, acts of government, strikes, lockouts, other labor disputes, fire, explosion, theft, floods, water, weather, earthquake, riot, civil commotion, war, vandalism, misuse, abuse, mischief, or acts of God.

We agree that we shall be liable for accidents and injuries to person or property when adjudged to have been caused by the sole negligence or willful misconduct of Otis or our employees. In all other instances, Customer shall indemnify,

defend and hold us harmless against all claims, damages, losses, costs, and expenses (including attorney's fees and other litigation costs) arising out of or connected with the use, repair, maintenance, operation or condition of the Equipment. We shall maintain worker's compensation and employers' liability insurance covering our liability for injury or death sustained by our employees, and comprehensive general liability insurance. You shall insure that all risk insurance upon the full value of the Work and material delivered to the job site is maintained at no cost to us. If either party so requires, in writing, the other party shall furnish certificates of insurance evidencing the above insurance coverages.

Notwithstanding any other agreement or provision to the contrary, under no circumstances will either party be liable for any indirect, special or consequential damages of any kind, including, but not limited to, fines or penalties, loss of profits, loss of rents, loss of good will, loss of business opportunity, additional financial costs, or loss of use of any equipment or property, whether in contract, tort, warranty or otherwise.

You agree to provide us unrestricted ready and safe access to all areas of the building in which any part of the Units are located, to keep all machine rooms and pit areas free from water, stored materials, and debris, to provide a safe work place for our personnel, to remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations, and to provide a grounded, 3-prong electrical system and proper lighting in the machine rooms and pits. We shall not be obliged to perform until such unsafe condition has been remedied.

If any Unit is malfunctioning or is in a dangerous condition, you agree to notify us as soon as possible using the 24-hour OTISLINE® service. Until the problem is corrected, you agree to remove the Unit from service and take all necessary precautions to prevent access or use.

You will provide written notice within twenty-four hours after occurrence of any accident in or about the elevator (s) and/or escalator(s) to us and if required by law, to any local authorities. You further agree to preserve replaced parts.

Escalator Units are designed only for transporting passengers. For escalator Units, you agree to take all necessary measures to prevent other items from being conveyed, so that features designed to protect passengers and prevent property damage are not damaged. When stationary, escalators are to be properly barricaded and not to be used as steps.

You agree to properly post, maintain, and preserve any and all instructions or warnings to passengers in connection with the use of any Units.

In the event of an entrapment, Customer will call Otis and wait for a trained and licensed elevator mechanic to arrive, except for a medical emergency situation where it may be appropriate to summon a professional first responder such as police or firemen. Customer agrees that its agents, contractors, employees or representatives shall not attempt to extricate any passengers from an elevator that becomes stalled within the hoistway.

Otis will not be required to make renewals or repairs necessitated by fluctuations in the building AC power systems, adverse hoistway or machine room conditions (including temperature variations below 60 degrees and above 90 degrees Fahrenheit), excessive humidity, adverse environmental conditions, water damage, rust, fire, explosion, acts of God, misuse, or vandalism.

If this Agreement is terminated prematurely for any reason, other than our own default, you agree to pay as liquidated damages, and not as a penalty, one-half (50%) of the remaining amount due under this Agreement.

Should this Agreement be accepted by you in the form of a purchase order, the terms and conditions of this Agreement will take precedence over those of the purchase order.

We will not be liable for any claim, injury, delay, death or loss or property resulting from telephone equipment failure, false alarms, interruption of telephone service, or "no voice calls", i.e. calls from inside the equipment to Otisline where there is no verbal response to the Otisline operator.

ALTERATIONS

You will not allow others to make alterations, additions, adjustments, or repairs to the equipment.

SPECIAL PROVISIONS

Notwithstanding any other provision herein to the contrary, the following provisions shall be applicable and govern in the event of conflict:

Annual Fire Testing and Five Year Full Load Safety Testing included.

CONTRACT PRICE AND TERM

CONTRACT PRICE

Two thousand two hundred dollars (\$ 2,200.00) per month, payable Monthly

PRICE ADJUSTMENT

The Contract Price will be fixed for the Term of the Contract.

TERM

The Commencement Date will be 07/01/2018.

The Term of this Contract unless modified under the extended term below, will be for three (3) years beginning on the Commencement Date. The Contract will automatically be renewed on the third anniversary for an additional one (1) year unless terminated by either party by giving written notice to the other party at least ninety (90) days, but no more than 120 days prior to the end of the current three (3) year term. Thereafter, the Contract will automatically be renewed on each first anniversary for an additional one (1) year term unless terminated by either party by giving written notice to the other party at least ninety (90) days, but no more than 120 days prior to the end of the then current one (1) year term.

In the event that you sell the building or your interest is terminated prior to the expiration of the Contract, you agree to assign the Contract to the new owner or successor and to cause the new owner to assume your obligations under this agreement. If the new owner or successor fails to assume your obligations under the Contract, then you agree to pay to Otis all sums due for the unexpired Term.

PAYMENTS

Beginning on the Effective Date, payments will be due and payable on or before the first day of the contract year in which services are rendered beginning on the Commencement Date.

Electronic Funds Transfer Payments (ACH/EFT)

Transmission Format

Accepting CTX (Corporate Trade Exchange) format only. This format allows for up to 9,999 invoices per payment and supports detailed remittance data. It allows the combining of multiple invoices on a single payment and will ensure automatic credit to your accounts, as long as the entire Otis invoice number(s) is transmitted in the exact Otis format (examples below).

Please use the IV (which stands for invoice number) Qualifier when providing the Otis invoice number.

Minimum Payment Information

The following information is required with each transmission:

- Payment Amount
- Use the IV Qualifier to provide the ENTIRE INVOICE NUMBER (minimum 10 characters, maximum 12 characters in exact Otis format).
- Example NKG05678 101 or NKG38062001.
- Payment Date

Depository Information

Depository Institution: JP Morgan Chase

Depository Address PO Box 31339-33631-3339, Tampa, FL 33631-3339

Account Name: Otis Elevator Company

Account Number: 55-20622

Bank routing Number: 071000013

If a wire transfer use this routing number: 021000021

Remittance Information

For each transmission, please send remittance notification to Otis Elevator Company via email at REMITTANCE@OTIS.COM or fax to 860-353-5145.

ACCEPTANCE

This proposal, when accepted by you below and approved by our authorized representative, will constitute the entire and exclusive contract between us for the services to be provided and your authorization to perform as outlined herein. All prior or contemporaneous oral or written representations or agreements not incorporated herein will be superseded. Any purchase order issued by you in connection with the services to be provided will be deemed to be issued for your administrative or billing identification purposes only, and the parties hereto intend that the terms and conditions contained herein will exclusively govern the services to be provided. We do not give up rights under any existing contract until this proposal is fully executed. This Contract may not be changed, modified, revised or amended unless in writing signed by you and an authorized representative of Otis. Further, any manual changes to this form will not be effective as to Otis unless initialed in the margin by an authorized representative of Otis.

THIS QUOTATION is valid for ninety (90) days from the proposal date.

Submitted by: Rose Spencer
Title: Account Manager
E-mail: rose.spencer@Otis.com

Accepted in Duplicate

CUSTOMER

Approved by Authorized Representative

Date: _____

Otis Elevator Company

Approved by Authorized Representative

Date: _____

OTIS MAINTENANCE

Signed: _____	Signed: _____
Print Name: - _____	Print Name: <u>Nikki Windham</u>
Title - _____	Title <u>General Manager</u>
E-mail: - _____	
Name of Company - _____	

☐ Principal, Owner or Authorized Representative of Principal or Owner

☐ Agent: _____
(Name of Principal or Owner)

BILL TO INFORMATION

Company Name: _____

Address: _____

Address 2: _____

City: _____

State: _____

Zip Code: _____

ACCOUNTS PAYABLE CONTACT

Name: _____

Phone Number: _____

Fax Number: _____

E-mail: _____

TAX STATUS

Are you tax exempt? Yes No

If yes, please provide tax exempt certificate

Do you require a Purchase Order be listed on your invoices? Yes No

If yes, please provide contact info for PO renewal:

Name: _____

Fax: _____

Phone: _____

E-Mail: _____

Would you like Otis to automatically debit your bank account for your maintenance invoices? Yes No

If yes, please provide blank check for bank routing and account information.

CITY OF STOCKTON
REQUEST FOR SEALED BID
Elevator Maintenance and Repair Services

THREE-YEAR TERM

The below prices shall be fixed during the initial three-year term of the Contract.

Item	Elevator	Monthly Price	Load Testing	Annual Price
1.	Police Dept. Main Elevator #050202	\$165.00	\$ N/C	\$1,980.00
2.	Cesar Chavez Central Library Elevator #039839	\$170.00	\$ N/C	\$2,040.00
3.	Cesar Chavez Central Library Elevator #039839	\$170.00	\$ N/C	\$2,040.00
4.	Cesar Chavez Central Library Elevator #039840	\$80.00	\$ N/C	\$960.00
5.	City Hall Elevator #010668	\$315.00	\$ N/C	\$3,780.00
6.	City Hall Elevator #010669	\$315.00	\$ N/C	\$3,780.00
7.	City Hall Elevator #010670	\$315.00	\$ N/C	\$3,780.00
8.	SEB Building Elevator #120197	\$170.00	\$ N/C	\$2,040.00
9.	SEB Building Elevator #120355	\$170.00	\$ N/C	\$2,040.00
\$	SEB Building Elevator #136717	\$170.00	\$ N/C	\$2,040.00
11.	Permit Center Vertical Platform Lift	\$80.00	\$ N/C	\$960.00
12.	Podesto Teen Center Elevator #140075	\$80.00	\$ N/C	\$960.00
GRAND TOTAL Annual				\$26,400.00 (All Inclusive)

*If Load Tests are considered part of the annual/monthly charge, then please write N/C.

YEAR FOUR AND FIVE BID

Year Four and Five Bid will be used for informational purposes only. These prices will not be used in the evaluation of the cost. Bidder agrees that prices quoted are the maximum they will charge during the renewal terms of any contract awarded as a result of this RFP.

Item	Elevator	Monthly Price	Load Testing	Annual Price
1.	Police Dept. Main Elevator #050202	\$165.00	\$ N/C	\$1,980.00
2.	Cesar Chavez Central Library Elevator #039839	\$170.00	\$ N/C	\$2,040.00
3.	Cesar Chavez Central Library Elevator #039839	\$170.00	\$ N/C	\$2,040.00
4.	Cesar Chavez Central Library Elevator #039840	\$80.00	\$ N/C	\$960.00
5.	City Hall Elevator #010668	\$315.00	\$ N/C	\$3,780.00
6.	City Hall Elevator #010669	\$315.00	\$ N/C	\$3,780.00
7.	City Hall Elevator #010670	\$315.00	\$ N/C	\$3,780.00
8.	SEB Building Elevator #120197	\$170.00	\$ N/C	\$2,040.00
9.	SEB Building Elevator #120355	\$170.00	\$ N/C	\$2,040.00
10.	SEB Building Elevator #136717	\$170.00	\$ N/C	\$2,040.00
11.	Permit Center Vertical Platform Lift	\$80.00	\$ N/C	\$960.00
12.	Podesto Teen Center Elevator #140075	\$80.00	\$ N/C	\$960.00
GRAND TOTAL Annual				\$26,400.00 (All Inclusive)

*If Load Tests are considered part of the annual/monthly charge, then please write N/C.

YEAR FIVE				
Item	Elevator	Monthly Price	Load Testing	Annual Price
1.	Police Dept. Main Elevator #050202	\$165.00	\$ N/C	\$1,980.00
2.	Cesar Chavez Central Library Elevator #039839	\$170.00	\$ N/C	\$2,040.00
3.	Cesar Chavez Central Library Elevator #039839	\$170.00	\$ N/C	\$2,040.00
4.	Cesar Chavez Central Library Elevator #039840	\$80.00	\$ N/C	\$960.00
5.	City Hall Elevator #010668	\$315.00	\$ N/C	\$3,780.00
6.	City Hall Elevator #010669	\$315.00	\$ N/C	\$3,780.00
7.	City Hall Elevator #010670	\$315.00	\$ N/C	\$3,780.00
8.	SEB Building Elevator #120197	\$170.00	\$ N/C	\$2,040.00
9.	SEB Building Elevator #120355	\$170.00	\$ N/C	\$2,040.00
10.	SEB Building Elevator #136717	\$170.00	\$ N/C	\$2,040.00
11.	Permit Center Vertical Platform Lift	\$80.00	\$ N/C	\$960.00
12.	Podesto Teen Center Elevator #140075	\$80.00	\$ N/C	\$960.00
GRAND TOTAL Annual				\$26,400.00 (All Inclusive)

*If Load Tests are considered part of the annual/monthly charge, then please write N/C.

HOURLY RATE SCHEDULE

Rate Schedule for labor paid by the hour to complete work approved by the City of Stockton beyond the maintenance and service contract:

Position	Standard	Overtime (1.5)	Double-time (2.0)
Mechanic	\$518.70	\$774.46	\$1037.40
Helper	\$518.70	\$774.46	\$1,037.40
Crew	\$1,037.40	\$1,548.93	\$2074.80
Adjuster	\$583.54	\$1,548.93	\$1,167.08

FIRM

SIGNED BY

ADDRESS

TITLE

TELEPHONE/FAX

DATE



**UNITED
TECHNOLOGIES
OTIS ELEVATOR**

ACKNOWLEDGMENT

Thank you for the opportunity to bid

**Otis Elevator Company
4604 Roseville Road, Suite 112
North Highlands, CA 95660**

Contract:
SW 05589

Customers Contract #

Date Acknowledged
May 1, 2018

Attention To:
City of Stockton

Job Locations:
22 E Market St. 22 E Weber St.
605 N. El Dorado St. 345 N. El Dorado St.
425 N. El Dorado St. 725 N. El Dorado St.

Thank you for allowing us the opportunity to do business with your company. Enclosed is/are 1 signed copy(ies) of our Agreement with you. Our acceptance of this Agreement is conditioned by the following clarifications to its terms, whether specifically noted in the contract or as an additional document incorporated by reference or as a matter of law.

Article 3 & Exhibit C

We are supplying the attached insurance certificate evidencing the insurance carried by us conditioned on the understanding that it represents full compliance with all insurance requirements applying to us on this project. Otis does not provide copies of its insurance policies, certified or otherwise. Coverage will be on an occurrence basis and in accordance with the coverage limits outlined in the contract documents. Renewal certificates will be provided during the term of the contract. In lieu of naming parties as additional insured, such parties shall be named insured on an Owner's and Contractor's Protective (OCP) Liability policy with a limit of \$2,000,000.

You shall maintain "All Risk" insurance upon the full value of our Work and material delivered to the job site, at no cost to Otis.

Article 4

Notwithstanding any other provision to the contrary, we agree to indemnify you only for losses due to personal injury, or property damage to the extent caused by our negligent acts or omissions, or the negligent acts or omissions of our employees, agents and subcontractors during the performance of this contract, but not to the extent caused by others. Each party shall defend itself in the event of a lawsuit.

Article 10

Otis does not agree to termination for convenience purposes.

The Customer may, by written notice to Otis, terminate this Contract if Otis fails to perform any of its material obligations hereunder and does not cure such failure within thirty (30) days after receipt of written notice from the Customer specifying in detail such failure.

Article 16

Otis agrees, upon reasonable request, to substantiate that our billing is in conformity with the terms of the agreement and to furnish documents verifying each charge billed to the Customer on a time and material basis or to the extent required by law. Otis does not agree to other audit privileges.

Attachment A - PERFORMANCE

Otis will provide 24 hour a day emergency callback service at no charge through Otis Line. On Callbacks outside of regular working hours of 8:00am to 5:00 pm, Otis will absorb the worked hours at straight time rates and you will be charged for the overtime premium portion only, including for travel time.

Attachment A - SCHEDULES & RECORDS

Otis will place customer on Otis's online E*Service computer management system. E*Service has tremendous functionality that will allow you to verify performance, run customized reports, and even place service calls. Our E*Service allows you to see when equipment is scheduled for service, when services was performed, uptime of a unit, shutdowns, repairs and allows for numerous charts and tables to show equipment performance.

Attachment A - SCHEDULES & RECORDS

Otis will maintain accurate records for routine and repair work through Otis's online E*Service computerized management system. Otis will provide a login ID and password for E*Service. Customer will have access 24 x 7 access to all reports through E*Service. Customer will receive emails with a detail of all routine and repair that was completed. The e-mail will be sent the morning after the work is closed by the mechanic. Otis does not log work, material and labor in any outside computerized management systems.

OTIS MAINTENANCE MANAGEMENT SYSTEMSM

We will use the Otis Maintenance Management System preventive maintenance program to deliver service tailored to your specific building needs. Equipment type, component life, equipment usage, and building environment will be taken into account by the OMMS® scheduling system, which will be used to plan maintenance activities in advance. The Units will be provided with devices to monitor equipment usage. We will use OMMS standard work processes developed and continuously improved by Otis.

ADD: PROJECT DELAYS

Notwithstanding any other provision in the contract to the contrary, neither party shall be liable for any loss, damage or delay due to any cause beyond either party's reasonable control, including but not limited to acts of government, labor disputes, strikes, lock outs, theft, weather, natural or man-made disaster, civil commotion, mischief or act of God.

Under no circumstances shall either party be liable for special, indirect, liquidated or consequential damages of any kind including, but not limited to, loss of goodwill, loss of business opportunity, additional financing costs or loss of use of any equipment or property.

GENERAL**SOFTWARE**

Otis shall provide its maintenance personnel with the appropriate (as determined by Otis in its sole discretion) tools to enable Otis to troubleshoot, diagnose and maintain the equipment as provided in this Agreement. These tools shall remain the property of Otis and nothing in this Agreement shall be construed to obligate Otis to give, disclose or in any manner transfer such tools to the Customer or any third party.

Any counters, meters, tools, remote monitoring devices, communication devices, resident software or other service equipment ("Otis Peripherals") which we may use or install to deliver service under this Contract remains our property, solely for the use of our employees. Otis Peripherals are not considered as part of the elevator. If this contract or subsequent maintenance service is terminated for any reason, we will be given access to the premises to remove the Otis Peripherals at our expense.

SEARCHED AND TESTS

Otis supports your efforts in attempting to maintain a safe, healthy and productive working environment; however, we cannot agree to authorize any party to search our employees or require our employees to submit to any tests. Otis will take appropriate action in the event that you advise us of any action by any of our employees that is contrary to the maintenance of a safe, healthy and productive workplace.

SAFE ACCESS

Customer agrees to provide Otis with unrestricted ready and safe access to all areas of the building in which any part of the Units are located and to keep all machine rooms and pit areas free from water, stored materials and excessive debris.

WORK EXCLUDED

Otis is not required to alter, update, modernize or install new attachments to any units, whether or not recommended or directed by insurance companies or governmental authorities.

Otis will not be responsible for car enclosures (including but not limited to, wall panels, door panels, car gates, plenum chambers, hung ceilings, lighting, light diffusers, light tubes and bulbs, handrails, mirrors and floor coverings), rail alignment, when affected by building compression or shifting hoistway-enclosures, hoistway gates, hoistway inserts and brackets, mainline disconnect switches, doors, door frames, sills, swing door hinges and closing devices, hydraulic cylinders, plungers, buried piping, escalator balustrades, lighting and wedge guards. Otis will also not be responsible for computer and microcomputer devices, such as terminal keyboards and display units, that are not exclusively dedicated to the elevator system, telephones, intercoms, heat or smoke sensors or communications or safety signaling equipment not installed by Otis, or instructions or warnings in connection with use by passengers.

RESTRICTED PARTIES LAW

If the event the transactions contemplated hereunder are restricted by U.S. Government or other applicable laws and regulations, including but not limited to those designating certain parties as "denied", "restricted" or similarly ineligible to do business with U.S. entities, this agreement will be deemed void and Customer shall pay Otis all sums owed for the goods and services that may have been provide up to such time according to the rates contained in this agreement.

We want to take this opportunity to thank you for this order.

OTIS ELEVATOR COMPANY

Exhibit C:
Insurance Requirements for Most Contracts
(Elevator Maintenance and Repair)

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, their agents, representatives, employees or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the **general aggregate limit shall be twice** the required occurrence limit.
2. **Automobile Liability (AL):** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to coverage for the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- ***Additional Insured Status***

The City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers are to be covered as additional insureds on the CGL and AL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (**at least as broad as** ISO Form CG 20 10 11 85 or if not available, through the

addition of both CG 20 10 and CG 20 37 if a later edition is used). Additional insured Name of Organization shall read "City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers." Policy shall cover City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers for all locations work is done under this contract.

- **Primary Coverage**

For any claims related to this contract, the Contractor's insurance coverage shall be endorsed as primary insurance as respects the *City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers*. Any insurance or self-insurance maintained by the *City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers* shall be excess of the Contractor's insurance and shall not contribute with it. The City of Stockton does not accept endorsements limiting the Contractor's insurance coverage to the sole negligence of the Named Insured.

- **Notice of Cancellation**

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

- **Waiver of Subrogation**

Contractor hereby grants to the City of Stockton a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer.

- **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the City of Stockton Risk Services. The City of Stockton may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

- **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII if admitted to do business in the State of California; If not admitted to do business in the State of California, insurance is to be placed with insurers with a current A.M. Best's rating of no less than A+:X.

- **Claims Made Policies**

If any of the required policies provide claims-made coverage:

- The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
- If Claims Made policy form is used, a three (3) year discovery and reporting tail period of coverage is required after completion of work.

- ***Verification of Coverage***

Contractor shall furnish the City of Stockton with original certificates and amendatory endorsements required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. Failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time, for any reason or no reason.

Contractor shall, prior to the commencement of work under this Agreement, provide the City of Stockton with a copy of its Declarations Page and Endorsement Page for each of the required policies.

- ***Special Risks or Circumstances***

The City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

- ***Certificate holder address***

Proper address for mailing certificates, endorsements and notices shall be:

- City of Stockton
- 400 E Main Street, 3rd Floor – HR
- Attn: City Risk Services
- Stockton, CA 95202

City of Stockton Risk Services Phone: 209-937-5037

City of Stockton Risk Services Fax: 209-937-8558

- ***Maintenance of Insurance***

If at any time during the life of the Contract or any extension, the Contractor fails to maintain the required insurance in full force and effect, all work under the Contract shall be discontinued immediately. Any failure to maintain the required insurance shall be sufficient cause for the CITY to terminate this Contract.

- ***Subcontractors***

If the Contractor should subcontract all or any portion of the work to be performed in this contract, the Contractor shall cover the sub-contractor, and/or require each sub-contractor to adhere to all subparagraphs of these Insurance

Requirements section. Similarly, any cancellation, lapse, reduction or change of sub-contractor's insurance shall have the same impact as described above.

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PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
 PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

I. PURPOSE

The purpose of this policy is to reaffirm the City's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace. This policy defines prohibited behavior and conduct, and sets forth a procedure for reporting, investigating and resolving complaints of discrimination, harassment, in the workplace, including retaliation and hostile work environment.

II. POLICY

- A. The City of Stockton prohibits any form of discrimination and/or harassment of any person based on race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute consistent with state or federal law. All such discrimination and harassment is unlawful and shall not be tolerated. In addition, under the federal Affordable Care Act (ACA), the City of Stockton prohibits discrimination and/or harassment, or retaliation against an employee who obtains coverage, receives a tax credit or subsidy through the Health Care "Market Place" or "Exchange."
- B. It is an unlawful employment practice to discriminate against or to harass an unpaid intern or volunteer on the basis of any legally protected classification unless an exception applies, such as a bona fide occupational qualification.
- C. The City will neither tolerate nor condone discrimination and/or harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business service, or professional relationship.
- D. All City employees and non-employees share a responsibility to assist in

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maintaining an employment environment free of discrimination and harassment. This policy applies to all aspects of City employment, including, but not limited to, hiring, reassignment, placement, promotion, employment action, disciplinary action, layoff, reemployment, transfer, leave of absence, compensation and benefits, training; or other terms of treatment of that person in an unpaid internship, or another limited duration program to provide unpaid work experience for that person, or the harassment of an unpaid intern or volunteer.

- E. All allegations of discrimination and/or harassment shall be investigated immediately by the City, in accordance with this policy. If it is determined that any prohibited activity has occurred, remedial action shall be taken. Such action may include discipline up to and including discharge. In addition, under applicable law, individual supervisors and employees may be subject to personal liability and/or punitive damages in any litigation arising as a result of such conduct.
- F. All new hires shall attend harassment awareness training, and supervisors and managers shall attend harassment awareness and prevention training for supervisors every two years.
- G. The City of Stockton prohibits retaliation against any employee or non-employee by another employee, non-employee, supervisor, or manager for reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding, or hearing conducted by the employer or a federal or state enforcement agency.
- H. This policy applies to all officials, employees, volunteers, unpaid interns, agents, or contractors of the City.
- I. This policy shall be administered by the Director of Human Resources.

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III. DEFINITION AND EXAMPLES OF DISCRIMINATION AND HARASSMENT

- A. "Discrimination," as used in this policy, is any action, behavior, practice, or process that is intended to deny, or results in the denial of, employment rights, privileges, or benefits because of a person's race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other prohibition identified under state and federal law. The following are examples of conduct that may constitute discrimination:
1. Soliciting applications from a source where all or most of potential workers are of the same race or color.
 2. Considering a person's gender as the basis for differences in pay, work assignments, performance evaluations, training, discipline, or any other area of employment; and
 3. Questioning a job applicant about the existence, nature and severity of a disability.
- B. "Harassment," as used in this policy, consists of any conduct affecting another person because of his or her race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute identified under state and federal law when such conduct has the purpose or the effect of: (1) creating an intimidating, hostile or offensive work environment; (2) unreasonably interfering with the employee's or non-employee's work performance; or (3)

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otherwise adversely affecting an employee's or non-employee's employment opportunities.

Harassment may take many forms, including, but not limited to, the following examples:

1. Verbal Harassment: Epithets, derogatory and offensive comments or slurs based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
 2. Physical Harassment: Assault, impeding or blocking movement that results in the physical interference with normal work or movement on the basis of race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
 3. Visual Harassment: The displaying of posters, photography, notices, bulletins, e-mails, cartoons or drawings with derogatory and offensive content based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
- C. "Sexual harassment," as used in this policy, is a subcategory of harassment, and is specifically defined by law as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:
1. Submission to such conduct is made a term or condition of employment; or
 2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or

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3. Such conduct has the purpose or effect of unreasonably interfering with an employee's or non-employee's work performance or creating an intimidating, hostile or offensive working environment because of the persistent, severe or pervasive nature of the conduct.

Examples of Sexual Harassment include, but are not limited to the following:

- a. Unwelcome sexual overtures or propositions.
- b. Offering employment benefits or status in exchange for sexual favors.
- c. Making or threatening retaliation after a negative response to sexual advances.
- d. Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.
- e. Verbal conduct such as using epithets or slurs, telling sexually explicit jokes, or making derogatory or suggestive comments about a person's body or dress.
- f. Written communications of a sexual nature distributed in hard copy, soft copy or via a computer network.
- g. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
- h. Physical conduct such as touching, assaulting, impeding or blocking movements.

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- i. Retaliation for making harassment reports or threatening to report harassment.

D. Affordable Care Act (ACA) Anti-Retaliation

Pursuant to section §1558 of the Affordable Care Act, the City prohibits discrimination or retaliation towards any employee who:

1. Receives a health insurance tax credit or subsidy through the Health Care "Marketplace" or "Exchange", by which can trigger a penalty payable by the employer;
2. Reports potential violations of protections afforded under Title I of the Act, which provides guaranteed availability protections among other things;
3. Testifies in a proceeding concerning such violation;
4. Assists or participates in a proceeding concerning a violation; or
5. Objects to, or refuses to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of the Title I of the Act.

An employee who believes that he or she has been discharged or otherwise discriminated against in violation of section §1558 of the Affordable Care Act may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 2087(b) of title 15, United States Code.

IV. REPORTING AND COMPLAINT PROCEDURES

A. Immediate Action Required

The City's reporting and complaint procedures provide for an immediate, thorough and objective investigation of discrimination or harassment claims, appropriate disciplinary action taken against any person found to have engaged in prohibited behavior, and appropriate alternative remedies to any

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employee or non-employee subject to discrimination or harassment. To accomplish this, such incidents must be reported immediately to a supervisor or manager.

1. Employee's and Non-Employee's Responsibilities when Subjected to Discrimination and/or Harassment
 - a. Employees or non-employees who believe they have been subjected to discrimination or harassment, or are aware of discrimination or harassment against others, shall report the situation immediately to his/her supervisor or manager, except as specified in subsection (b), below. Employees and non-employees shall report any such incidents occurring in the workplace, whether committed by coworkers, supervisors or managers, or third persons doing business with the City, such as customers or vendors, or other non-employees. If comfortable doing so, an employee or non-employee who has a complaint of discrimination or harassment is encouraged to directly inform the person(s) engaging in the behavior that such conduct is offensive and insist the behavior to stop.
 - b. Employees and non-employees must immediately contact a supervisor or manager to register a complaint of discrimination or harassment, unless that supervisor or manager is the individual engaging in the unwanted behavior. In that case, the employee or non-employee may contact someone at the next supervisory level. If the employee or non-employee feels uncomfortable dealing directly with his or her immediate supervisor or manager, he or she may contact the department head, or the Director of Human Resources (or either of their designees) to register a complaint of discrimination or harassment.
 - c. Employees and non-employees may file a formal complaint of harassment or discrimination with their department head or

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with Human Resources. To assist the City in conducting a thorough investigation, complaints shall be submitted in writing and shall include specific details of the incident(s), the names of the individuals involved, the names of any witnesses, and any documentary evidence (notes, pictures, cartoons, etc.) that will corroborate the allegations.

- d. Employees and non-employees shall immediately report any retaliation to a supervisor, manager, department head or Director of Human Resources (or designee). All retaliation complaints shall be immediately, objectively and thoroughly investigated in accordance with the investigation procedures. If a report of retaliation is substantiated, appropriate disciplinary action, up to and including discharge shall be taken.

2. Supervisor's or Manager's Responsibilities to Eliminate Discrimination and/or Harassment

- a. A supervisor or manager is responsible for enforcing the City's discrimination and harassment policy. Supervisors or managers must ensure that all employees and non-employees are aware of the City's policy through open discussion of the policy at staff meetings and by posting the policy in a conspicuous location accessible to all staff members.
- b. A supervisor or manager shall be cognizant of employees' and non-employees' behavior and shall not permit any employee or non-employee under their supervision to be subjected to or engage in any conduct prohibited by this policy.
- c. A supervisor or manager who observes conduct prohibited by this policy shall immediately direct the employee or non-employee to cease the conduct.

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- d. A supervisor or manager who receives a complaint of prohibited conduct is required to take the complaint seriously, and report the matter immediately to the department head; be supportive of the complainant; ensure there is no retaliation against the complainant; conduct an internal fact-finding review into the allegations; obtain as much detailed information as possible; thoroughly document the findings; communicate in written form to the parties the resolution of the complaint; and report to and consult with the Human Resources Department promptly, without delay.
- B. Confidentiality. The City will make every effort to protect the privacy and confidentiality of all parties involved, as well as any information and/or documentation obtained, to the extent possible consistent with a thorough investigation.
- C. Penalty for Non-Compliance. The City shall take disciplinary action, up to and including discharge, against any supervisor or manager who fails in his/her responsibility to take immediate action in response to an employee's or non-employee's complaint of discrimination or harassment. Further, such disciplinary action shall be taken against a supervisor or manager who fails to stop discriminatory or harassing conduct committed in his/her presence or to stop such conduct about which the supervisor or manager has knowledge.

V. INVESTIGATION PROCEDURES**A. Determination of Responsibility for Investigation**

If a formal complaint is filed with the department head or the Director of Human Resources (or either of their designees), the department head and the Director of Human Resources shall consult with one another to determine whether the department or Human Resources shall conduct the fact-finding investigation into the allegations. Either the department head or the Director of Human Resources (or either of their designees), depending on who is

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responsible for the investigation, shall issue written notification to the complainant and alleged harasser(s). The notification shall specify the nature of the complaint, and inform the parties that an investigation into the allegations of discrimination and/or harassment shall be conducted.

B. Investigative Guidelines

The investigation shall include the following steps taken in the order best suited to the circumstances:

1. Identify and preserve the evidence.
2. Confirm the name and position of the complainant. Interview the complainant.
3. Allow the complainant the opportunity to place the complaint in writing.
4. Obtain the identity of the alleged harasser(s).
5. Obtain as many details as possible regarding the incident(s) that prompted the complaint, including the number of occurrences, dates, times, locations, and witnesses (if applicable).
6. Ascertain how the complainant felt about the alleged incident when it occurred; complainant's response(s) to the alleged behavior; and witness statements (if applicable).
7. Ascertain if any threats or promises were made in connection with the alleged harassment.
8. Ascertain if the complainant knows of or suspects that there are other victims of harassment by the same person(s).
9. Ascertain whether the complainant has spoken to anyone, especially

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supervisors, about the harassment.

10. Ascertain what resolution would be acceptable to the complainant.
11. Interview the alleged harasser to get his or her side of the story, including any possible motivation for a false allegation.
12. Interview witnesses who were identified by the complainant regarding the alleged harasser or other persons identified during the investigation.
13. Interview witnesses who were identified by the alleged harasser or other persons identified during the investigation.
14. Advise all participants that the investigation is "confidential" and not to engage in any retaliatory conduct, as such conduct is subject to disciplinary action up to and including discharge. Confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction.
15. Conduct follow-up interviews, if warranted.
16. Prepare report of findings and discuss with management and designated legal staff.

VI. RESPONDING TO THE COMPLAINT

- A. Following the completion of the fact-finding investigation, either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation, shall

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make a report of findings, along with a recommendation regarding the appropriate remedial action to be taken, if warranted. The recommendation shall be made after reviewing the findings of the investigation, giving consideration to all factual information, the nature of the alleged conduct, and the totality of the circumstances. If the investigation was conducted by the Director of Human Resources, or designee, the Director, or designee, shall confer with the affected department head and both shall concur on the remedial action to be taken, if any. If the investigation was conducted by the department head, the department head shall confer with the Director of Human Resources prior to making the report of findings and both shall concur on the remedial action to be taken, if any.

- B. If either the department head or the Director of Human Resources does not concur with the findings and recommendation of the other, the City Attorney (or designee) shall review and resolve the matter in dispute.
- C. Report of findings and recommendation shall be treated as a confidential document and no other distribution shall be made without first consulting with the City Attorney's Office. A completed investigation report will not be disclosed, except as it is deemed necessary to support a disciplinary action, to take remedial action, to defend the City in adversarial proceedings, or to comply with the law or court order.
- D. Either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation shall provide a written response to the complainant and the person alleged to have committed the misconduct, discrimination and/or harassment. The response shall include a copy of the City's discrimination and harassment policy and a memorandum indicating the City's determination as to whether the complaint is:
 - 1. Unsustained: The investigation failed to disclose sufficient evidence to substantiate the allegation(s).
 - 2. Unfounded: The investigation proved that the act(s) or omission(s)

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complained of did not occur. The finding also applies when the individual employee(s) named in the complaint were not involved in the act(s) or omission(s) alleged.

3. Sustained: The investigation disclosed sufficient evidence to substantiate the allegation(s) made in the complaint; appropriate action will be taken.

- E. Details regarding any specific fact-findings or disciplinary action to be taken will not be communicated to the complainant. The City Attorney shall review the response for legal sufficiency before dissemination.
- F. The City shall close and retain the investigation file, in accordance with applicable laws, regulations, and City policy regarding retention of City records.

VII. DISCIPLINE

Disciplinary action imposed as a result of any investigation conducted pursuant to this policy shall be commensurate with the severity of the offense, up to and including discharge, even for a first offense.

VIII. ALTERNATIVE REMEDIES

If upon exhausting all internal remedies to file, investigate, and respond to a charges of discrimination/harassment, pursuant to title VII of the Federal Civil Rights Act of 1964 (42 U.S.C §§ 2000e *et seq.*), any person has a right to file a charge of discrimination/harassment with the Equal Employment Opportunity Commission ("EEOC"). In addition, pursuant to the California Fair Employment and Housing Act (Gov. Code §§ 12900 – 12996.) a person may also file a complaint of discrimination/harassment with the California Department of Fair Employment and Housing ("DFEH"). Employees or non-employees who believe that they have been subjected to discrimination/harassment may file a complaint with either of these

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CITY MANAGER ADMINISTRATIVE DIRECTIVE

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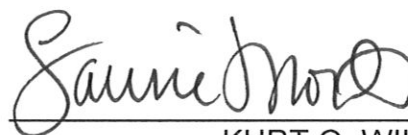
PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

agencies. Both the EEOC and DFEH serve as neutral fact-finders and attempt to assist parties in resolving disputes voluntarily.

IX. COMMUNICATION OF POLICY

This policy shall be provided to all managers, supervisors, employees, volunteers, unpaid interns, agents or contractors of the City and shall be posted in the appropriate places. All employees shall participate in City approved harassment awareness training as directed by management or Human Resources; and all supervisors, as required by law, shall participate in City approved interactive harassment awareness training and education sessions at least once every two years, or as otherwise specified by law.

APPROVED:



KURT O. WILSON
CITY MANAGER